



1950.

File No. O. Port Haj.

Legal Deptt

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A BRANCH

Subject:— Opinions under the
Port Haj Committees Act
1932

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File No.

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CONFIDENTIAL

Legal Department File No. 3. Port 1113 /50.

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Under the Port 1113

e. 1113 Act 1934.

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Sec. 1113 and (1):

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Office of the A. S. A.

Port Haj
Committees
Act, 1932,
section 20(b)
and (f),
Whether Govern-
ment is bound
to give grant-
in-aid to the
Haj fund.

Clause (b) and (f) of section 20 of the Port Haj Committees Act, 1932, provide that the following sums shall be placed to the credit of the Haj Fund -

(1) Sums received from the Hajis for the effects of deceased Hajis, which are unclaimed and which have lapsed to Government.

(2) Sums allotted by the Central or State Government after the coming into force of the Government of India, Act, 1935, the provisions of clauses (b) and (f) of section 20 became unconstitutional inasmuch as they interrupted the revenues of the Province. Under that Act it was not legal to credit any sum which formed part of the Provincial Revenues to any fund under any enactment unless either the is expressly voted for the grant of such sum to the fund or the expenditure incurred for the purpose was declared by an Act of the Legislature to be charged on the revenues of the Province. Para. 4(n) of the India and Burma (Transitory Provisions) Order, 1937, however made a temporary provision to the effect that any tax, fine, penalty or other sums of whatever nature required by or under any law as in force immediately before the 1st April 1937, to be credited to any local fund or other fund, should during the two financial years next following, that is upto 1st March 1939, be continued to be so credited and should not, during those years, be deemed to be part of the Provincial revenues. After the Order-in-Council expired, the question was raised whether the expenditure under clauses (b) and (f) of section 20 of the Port Haj Committees Act, should not be declared to be charged on the revenues of the Province. But the proposal was not accepted by Government. The Honourable the Finance Minister (the late Shri A.B. Latthe) observed that the property and money left by deceased Hajis became of the ownership of Government; and therefore there was no obligation on Government to make a charge on the revenues of the Province. The provision in clause (b) of section 20 has therefore become a dead letter. Government gives in lieu thereof grant-in-aid which Government is not bound by law to do. Whether the grant-in-aid should be continued to be paid is a matter of policy for Government to decide. But in any case no provision should now be made for declaring the expenditure charged on the Consolidated Fund of the State. Any such expenditure is likely to be challenged on the ground that it violates the provisions of article

15(1) of the Constitution

Sd/- P.M.L.

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Remembrances ± of the Legal Affairs.

U.R. to P.& S.D.No. 12857, dated the 9th September 1950.

S.A.K.

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